IN THE

Supreme Court of The United States

POP POPPENHEIMER ET AL
PLAINTIFF-PETITIONER

VS.

THE STATE OF TENNESSEE, acting through its agents and arms,
THE CITY OF MEMPHIS, TENNESSEE,
THE COUNTY OF SHELBY, TENNESSEE,
ET AL
DEFENDANTS-RESPONDENTS

NO. 71-3

PETITIONERS' BRIEF IN RESPONSE TO RESPONDENTS' BRIEFS

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TO THE HONORABLES CHIEF JUSTICE AND ASSOCIATE JUSTICES OF THE SUPREME COURT OF THE UNITED STATES

REPLY TO RESPONDENTS' BRIEFS

THE COUNTY OF SHELBY

Defendant-Respondent Shelby County's argument

was anticipated and met in the **Petition for Writ of Certiorari,** pp. 19-20 and 23-28; particularly the footnotes.

THE CITY OF MEMPHIS

Plaintiffs-Petitioners respectfully bring to the Court's attention that Defendant-Respondent City of Memphis' **Brief** is generally not responsive to the **Petition for Writ of Certiorari;** instead, the City attempts to make non-issues into issues: to wit:

(1) "They (the Petitioners) are attacking a system of **periodic** reapportionment. . . . In that case (Reynolds), it was expressly held that reapportionment of legislative districts following each Federal decennial census compiled with Constitutional requirements . . .". (parenthesis and emphasis supplied) **Respondent City's Brief,** p. 10.

(2) "It would appear that the Complaint . . . is asking the Court to require that the electoral districts of defendants be drawn entirely along racial lines". **Ibid,** at p. 13.

(3) In these portions of the Complaint, the Plaintiffs appear to object to the **number** of electoral districts . . .". (emphasis supplied) **Ibid.**

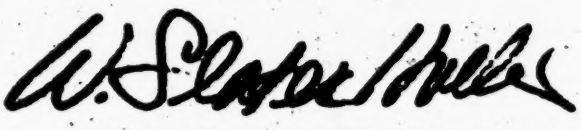
Defendant-Respondent City of Memphis does not, and can not, reference any instance in or outside the record to support these affirmations. They are non-issues that serve only to obfuscate the true issue of the case. **Petition,** pp. 2-3, 15-16.

Defendant-Respondent City of Memphis attempts further to make "apportionment **by population**" the **single** issue of the case, **Respondents' Brief,** p. 7, but it can cite no portion of the Complaint to support its urging. The legal issues (there are no issues of fact. See **Petition,** p. 15) are apportionment of legislators by race, by place, by population, and by literacy. (emphasis supplied) **Petition,** E. 2. **c. at pp. 9-12** and E. 2. **e.** at p. 12. See, **in accord, Complaint,** V., Sections D and E, at pp. 11-17 and Exhibits thereto.

Defendant-Respondent City of Memphis' argument, limited to apportionment by population, supra, that they futuristically "would" comply with this Court's mandates, **Respondent City's Brief,** pp. 8-9, was anticipated and is met in the **Petition for Writ of Certiorari,** pp. 20-21, 28-34.

Defendant-Respondent City of Memphis attacks Petitioners use of the wording "designedly or not" in the Complaint, **Respondent City's Brief,** p. 11. This is essentially the wording of this Court in **Fortson v. Dorsey,** 379 U. S. 433 at p. 439. See also **Burns v. Richardson,** 384 U. S. 73 at p. 88.

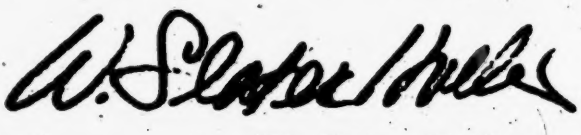
WHEREFORE, Petitioners pray that a Writ of Certiorari issue to review the Opinion and Decree of the Supreme Court of the State of Tennessee in the case at bar.



WILLIAM SLATER HOLLIS

CERTIFICATE OF SERVICE

We hereby certify that we have this day mailed two copies of this Brief to the Attorneys for all parties to the proceedings; namely, Mr. James Manire, City Attorney, and Mr. Brady Bartusch, Assistant City Attorney, City Hall; Mr. Cleve Drennon, County Attorney, Shelby County Bldg.; Mr. Jack Petree, City Board of Education Attorney, and Ernest Kelly, Jr., Of Counsel, 900 Memphis Bank Bldg.; Mr. Lee Winchester, Jr., Co. Bd. of Educ. Attorney, Suite 3200, 100 N. Main Bldg., all of Memphis, Tennessee, and Mr. David Pack, State Attorney General, Supreme Court Bldg., Nashville, Tenn., this 5th day of August, 1971.



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